

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Jason Dean Smith &  
Kimberly Henderson Smith,**  
Petitioners-Appellants,

v.

**Polk County Board of Review,**  
Respondent-Appellee.

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**ORDER**

**Docket No. 11-77-0436  
Parcel No. 221/00193-202-000**

On January 6, 2012, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants, Jason Dean Smith and Kimberly Henderson Smith (Smiths), were self-represented and requested a written consideration. The Polk County Board of Review designated Assistant County Attorneys Ralph Marasco, Jr., David Hibbard, and Anastasia Hurn as its legal representative. The Appeal Board having reviewed the record and being fully advised, finds:

*Findings of Fact*

The Smiths are the owners of a residential, single-family property located at 451 N Hickory Boulevard, Pleasant Hill, Iowa. The property is a two-story home, built in 1989, with 1770 square feet of total living area. The property has a 1004 square-foot basement with 884 square feet of average plus finish. Additionally, the dwelling has a 506 square-foot attached garage; a 112 square-foot open porch; a 693 square-foot deck; and a 160 square-foot frame shed built in 1992. The site is 0.348 acres.

The Smiths protested to the Polk County Board of Review regarding the 2011 assessment of \$226,400, which was allocated as follows: \$36,400 in land value and \$190,000 in improvement value.

Their claim was that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a). They did not request a hearing with the Board of Review.

The Board of Review denied the protest.

The Smiths then appealed to this Board and through their written statement essentially claim that they are assessed for more than authorized by law under section 441.37(1)(b). However, this Board can only consider those grounds that were raised before the Board of Review. Therefore, we will only consider a claim of inequity. In their appeal, the Smiths asserted the correct value of their property was \$196,669, allocated as \$36,400 in land value, and \$160,269 in improvement value.

On the protest form to the Board of Review, the Smiths listed five properties as equity comparables and provided the following information:

Tax District/Parcel	Street Address	Assessed At:
221/00193-203-002	441 N Hickory Blvd	\$174,400
221/00193-204-001	431 N Hickory Blvd	\$186,300
221/00193-205-000	421 N Hickory Blvd	\$164,000
221/00216-203-000	450 N Hickory Blvd	\$187,900
221/00193-019-000	5000 Ash Dr	\$141,200

The Smiths provided no other explanation or other information regarding these properties.

Evidence in the record indicates the assessed values reported on the petition are the 2010 assessed values.

The Board of Review provided some information about these properties in an equity comparison analysis, however property record cards for the properties were not included in the record. It appears three properties are two-story total living area (TLA) similar to the subject. But the other two are one-story and split-level homes with 1360 and 1060 square feet of TLA respectively compared to the subject's TLA of 1770 square feet. We only consider the two-story homes as similar comparables.

The Board of Review Appraiser Analysis remarks that the equity comparables supplied by the Smiths are “similar.” The analysis pointed out the differences noted above (deck and basement finish) and suggested the property at 431 N Hickory Boulevard is the most similar to the subject property. It further recommended the Board of Review deny the petition.

We are unclear why the Appraiser Analysis recommended the petition be denied when it identifies a property that is assessed for \$193,400 as the most similar to the subject property. However, we note that a full equity analysis was not completed by either the Smiths or the Board of Review to determine whether the subject property is equitably assessed.

The burden is with the Smiths and only one of their equity comparables was a recent sale. This sale’s reliability was also questionable. No market value was determined for the other two properties. Essentially, there is not enough information in the record to develop a ratio analysis. Likewise, there is no claim by the Smiths that these properties were valued using different methods.

The Board of Review did not provide any additional evidence.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is inequitably assessed.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or

The two-story homes are located at 441, 431, and 421 N Hickory Boulevard. They have comparable quality grades and condition ratings. They were all built at roughly the same time. These properties have 2011 assessments ranging from \$168,400 to \$193,400. However, they all lack the significant deck area that the subject features, and the same amount of basement finish. Two of the properties have less than half the amount of basement finish the subject features, and one property has no basement finish. Only one of the properties sold recently. The property at 441 N Hickory Boulevard sold in July 2010 for \$167,000; but, the purchaser is noted as the Salvation Army. As such, this may not be reflective of a normal transaction. Regardless, a single comparable is insufficient for an equity analysis.

In their petition to this Board, the Smiths stated they “had to sell our property ‘on contract’ in order to sell it.” And that, in their opinion, contract sales prices are generally higher than typical mortgage sales prices due to the higher risk taken by the property owner. While we agree with this opinion in general, it is insufficient evidence to support an equity claim.

The Smiths also claimed that a property located at 441 N Hickory Boulevard is a mirror of their property and sold “for \$7400 under its 2010 assessment value.” The record indicates the 2010 assessed value was \$174,700, and the sales price was \$167,000. However, as previously noted the purchaser is listed as the Salvation Army. It is unknown if this is a normal, arm’s length transaction that can be considered in the development of a sales ratio analysis.

They noted this property’s assessment declined by 1.31% between 2009 and 2011, whereas their property’s assessment increased by 17% over the same time-frame. They further noted the difference in the assessment is entirely contributed to the improvement value. Again, we note there is no property-record card in the record to confirm these assertions.

The Smiths request a decrease in the 2011 assessed value of their improvements to \$160,269. They arrived at this conclusion by reducing the 2009 assessed value of their improvements by 1.31%. They do not provide any support for this conclusion.

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing


“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

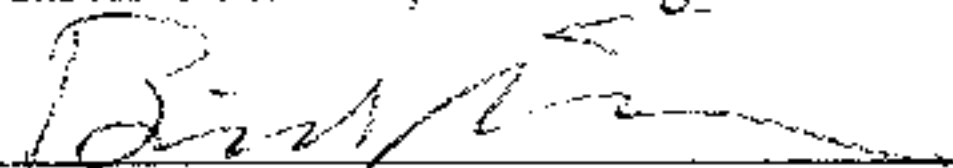
*Id.* at 579-580. The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

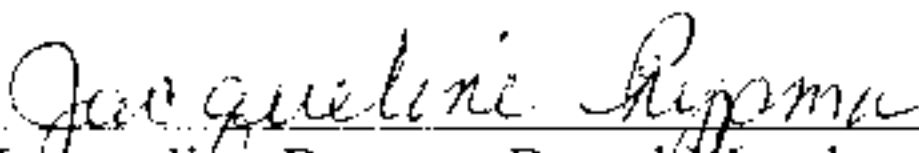
The Smiths provided five properties they considered to be equity comparables. While the evidence in the record is scant, it does indicate three of these properties are reasonably comparable to the subject property. However, the market value of the properties has not been determined. Therefore, an equity analysis can not be completed. The Smiths did not show inequity under the tests of *Maxwell* or *Eagle Foods*.

THE APPEAL BOARD ORDERS the assessment of the Smiths property located at 451 N Hickory Boulevard, Pleasant Hill, Iowa, of \$226,400, as of January 1, 2011, set by the Polk County Board of Review, is affirmed.

Dated this 30 day of January, 2012.

  
Karen Oberman, Presiding Officer

  
Richard Stradley, Board Chair

  
Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-30</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	